

JAMES D. MCCLELLAND.

V.

Defendant.

No. 1:03-cv-45

Edgar / Inman

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The Sixth Circuit has held that a “twenty-five percent [contingent] fee agreement [in a Social Security disability case] ‘should be given the weight ordinarily accorded a rebuttable presumption.’” *Royzer v. Secretary of Health and Human Services*, 900 F.2d 981 (6th Cir. 1990)(quoting *Rodriquez v. Bowen*, 865 F.2d 739, 746 (6th Cir. 1989)(en banc)).

On March 31, 2005, the defendant, the Commissioner of Social Security filed a response to the motion for authorization of an attorney’s fee pursuant to 42 U.S.C. § 406(b), [Doc. No. 31] in which the Commissioner stated she had no objection to the attorney fees in the amount requested of \$11,733.00. Thereafter, on April 1, 2005, after the matter had been referred to him [Doc. No. 30], United States Magistrate Judge Dennis H. Inman issued a report and recommendation: (1) finding that the attorney fee requested was reasonable and (2) recommending that the motion for attorney’s fees pursuant to 42 U.S.C. § 406(b) be GRANTED, and that McClelland’s counsel be awarded an attorney’s fee of \$11,733.00. [Doc. No. 32]. No objection has been filed to the report and recommendation of the United States Magistrate Judge.

Accordingly:

- (1) The motion for authorization of an attorney’s fee pursuant to 42 U.S.C. § 406(b) [Doc. No. 28-1] will be **GRANTED**;
- (2) Plaintiff’s counsel, Rex A Wagner will be **AWARDED** an attorney’s fee of \$11,733.00 out of the \$12,920.00 in accrued/past-due Social Security disability benefits which have been withheld from the plaintiff by the Commissioner for the payment of an attorney’s fee.

A separate order will enter.

/s/ *R. Allan Edgar*
R. ALLAN EDGAR
CHIEF UNITED STATES DISTRICT JUDGE